

TENNESSEE REGULATORY AUTHORITY

Pat Miller, Chairman
Deborah Taylor Tate, Director
Sara Kyle, Director
Ron Jones, Director



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

NOTICE OF FILING

DOCKET NO.: 02-00207

IN RE: **Petition of Tennessee UNE-P Coalition to Open Contested Case Proceeding to Declare Unbundled Switching an Unrestricted Unbundled Network Element**

DATE: **November 10, 2004**

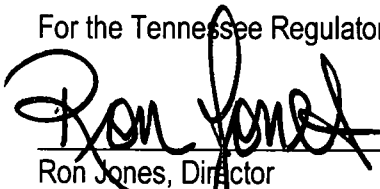
On February 25, 2002, the UNE-P Coalition filed a *Petition to Open a Contested Case Proceeding* requesting that the Authority establish local switching as an unrestricted, unbundled network element on a statewide basis. On May 20, 2002, the UNE-P Coalition amended its petition to clarify that the relief it sought was limited to unrestricted access to local switching in BellSouth Telecommunications Inc.'s service territory.

On August 21, 2003, the Federal Communications Commission ("FCC") released its *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking* ("TRO") in CC Docket Nos. 01-338, 96-98 and 98-147. In the TRO, the FCC modified its rules regulating the unbundling of local circuit switching. Among other actions, the FCC requested state commissions make findings in regard to local circuit switching for mass market customers and permitted states to challenge the lack of impairment finding in regard to local circuit switching for enterprise customers. After the release of the TRO, the Tennessee Regulatory Authority opened Docket Nos. 03-00490, 03-00491, 03-00526, and 03-00527 to address the issues presented to state commissions in the TRO, including those involving the regulation of local circuit switching.

On October 27, 2003, the Hearing Officer entered an order suspending all proceedings in the instant docket pending the outcome of any appeals of the TRO and/or the completion of TRA Docket Nos. 03-00490, 03-00491, 03-00526, and 03-00527. On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit issued an opinion in which it vacated much of the TRO, including the subdelegation scheme for network elements such as mass market switching. Thereafter, several petitions for writ of certiorari were filed with the United States Supreme Court. The Court denied these petitions on October 12, 2004. In an effort to comply with the Court of Appeals' decision, the FCC issued an *Order and Notice of Proposed Rulemaking* in CC Docket No. 01-338 on August 20, 2004. This order solicited comments on unbundling rules and set out an interim, twelve month plan to stabilize the market.

Given the recent actions of the federal courts and the FCC, the Hearing Officer directs the UNE-P Coalition to file comments by no later than **Wednesday, December 1, 2004** explaining how the docket should proceed. Any other party may file responsive comments by no later than **Wednesday, December 15, 2004**.

For the Tennessee Regulatory Authority:



Ron Jones, Director
Acting as Hearing Officer

cc. Parties of Record
Original in Docket File

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